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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,985	04/11/2001	Takashi Kinoshita	Q63469	8913

7590

10/22/2004

LAW OFFICES

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/829,985

Applicant(s)

KINOSHITA ET AL.

Examiner

Victor S Chang

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 17 and 19-27.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

NOTE

1. With respect to Applicants' argument "Arakawa et al discloses that ... second layer preferably has toughness and elasticity properties, and that the softness and toughness result from nonwoven fabric and pressure or heat applied thereto, respectively. Arakawa et al does not teach a structure having an elastic outer layer and a non-elastic plastic second layer provides the advantages, such as softness and toughness, as asserted by the Examiner" (Remarks, page 2, bottom two paragraphs), the Examiner notes that while Arakawa teaches the advantages of second layer being a nonwoven, however, this is not the relied upon teaching by Arakawa. The Examiner repeats (see page 3 of Office action dated 6/9/2004) that Arakawa also teaches that only the first (outer, see Fig. 1) layer is elastic, and suitable first layer include a mixture of polypropylene and segmented polyolefin type elastomer (column 2, lines 12-38), whereas the second layer (next to adhesive layer) is selected from polypropylene, ethylene-propylene copolymer, etc., which does not show rubber elasticity at normal temperature, for improved toughness and strength (column 3, lines 15-38). As such, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art of medical adhesive tape to modify the Yamaoka's laminate film with one of the outer layer (next to the adhesive layer) being non-elastic thermoplastic resin, as taught by Arakawa, motivated by the desire to obtain a suitable soft laminated backing with improved strength for a medical adhesive tape.

2. Applicants' argument "... the base film of which does not contain any thermoplastic elastomer on the surface on which a pressure-sensitive adhesive is not formed ..." (Remarks, page 3, first two paragraphs) appears to limit the structure of the invention to a specific order of the layers, which is clearly not in commensurate with the recitation in claim 17. Specifically, in claim 17, lines 2-3, the recitation "a pressure sensitive adhesive layer formed on one side of said base film" fails to preclude the pressure-sensitive layer being adjacent to an outer layer which comprises a thermoplastic elastomer, Applicants' argument to the contrary notwithstanding.
3. With respect to Applicants' argument "... the present invention is different in the constitution from that of Arakawa et al. ... the present invention is different in the constitution from that of Yamaoka et al." (Remarks, page 4, first and second full paragraphs), the Examiner notes that Applicants clearly argue the cited references individually. In response to Applicant's arguments, it is asserted that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. The Examiner repeats that it would have been obvious to one of ordinary skill in the art of medical adhesive tape to modify the Yamaoka's laminate film with one of the outer layer (next to the adhesive layer) being non-elastic thermoplastic resin, as taught by Arakawa, motivated by the desire to obtain a suitable soft laminated backing with improved strength for a medical adhesive tape, as set forth above.
4. With respect to the stress relaxation properties in Examples 1-4, Applicants argument "... Neither Akarawa et al nor Yamaoka et al disclose or suggest the functions

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and advantages of the present invention" (Remarks, pages 4-5) has been carefully considered, but is not persuasive. In particular, the Examiner notes the stress relaxation properties are not present in any of the claims. Further, it is the Examiner's position that since Yamaoka in view of Akarawa teaches the same subject matter as claimed, the stress relaxation properties of the base film laminate are also either anticipated, or an obvious optimization to one skilled in the art of backing film for medical adhesive tape.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vsc
Victor S Chang
Examiner
Art Unit 1771

10/19/2004



Ms. Arti R. Singh
Primary Examiner
Tech Center 1700